

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 IN RE: TERRORIST ATTACKS) 03-MDL-1570 (GBD) (SN)
4 ON SEPTEMBER 11, 2001)
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9
10 Tuesday, July 20, 2021
11 — — —
12 THIS TRANSCRIPT CONTAINS
13 CONFIDENTIAL MATERIAL
14 — — —
15 Remote video-recorded deposition of JONATHAN
16 BENTHALL, held at the location of the witness,
17 commencing at 12:03 p.m., on the above date, before
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19 Registered Diplomate Reporter, Certified Realtime
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1 A. I consider myself an expert on
2 aspects of money laundering as they pertain
3 to Islamic charities.

4 Q. What kind of training and
5 background do you have on money laundering
6 and investigating money laundering?

7 A. I don't have any formal
8 training on that.

9 Q. So how is it that you consider
10 yourself to be an expert in that area?

11 MR. NASSAR: Objection,
12 mischaracterizes his testimony. He
13 did not testify to that.

14 Q. (BY MR. MALONEY) Sir --

15 A. I have been --

16 Q. Sir, let me restate the
17 question.

18 Do you consider yourself to be
19 an expert in money laundering?

20 MR. NASSAR: Objection, asked
21 and answered.

22 A. I think I've answered that
23 question. With regards to money laundering
24 aspects relating to Islamic charities, I
25 consider I have expertise.

1 Q. (BY MR. MALONEY) Okay. You've
2 had no training in money laundering, no
3 experience in money laundering, but you
4 consider yourself to be an expert in money
5 laundering when it comes to Islamic
6 charities. Is that what you're saying?

7 A. In regards to Islamic
8 charities, I have been interested in this
9 question and have -- since the Montreux
10 Initiative -- since I was engaged by
11 the Montreux Initiative, it's been something
12 I've considered captive. Not money
13 laundering in the sense of money laundering
14 for alleged -- alleged terrorists, but rather
15 money laundering in general.

16 Q. Well, speaking of that, do you
17 consider yourself an expert in terror
18 financing?

19 A. Certainly with regard to
20 aspects of terrorist financing that pertain
21 to Islamic charities, I've been interested in
22 this for a long period and consider that I
23 have expertise.

24 Q. So based on your interest in
25 the subject matter, you consider yourself to

1 be an expert in terror financing when it
2 comes to charities. Is that what you're
3 saying?

4 A. Not just my interest, but my
5 active engagement with people who specialize
6 in the subject and in reading as much as I
7 have been able to of the literature on the
8 subject; the research literature and the
9 official documents.

10 Q. You mentioned the Montreux
11 Initiative in 2005, I think you said.

12 Did I get that right?

13 A. Yes.

14 Q. Tell me what that initiative
15 was, briefly.

16 A. The Montreux Initiative was set
17 up by the political division for -- of the
18 Swiss foreign relations department. In
19 particular, an individual called Jean-Nicolas
20 Bitter, spelled B-I-T-T-E-R, who had been
21 publishing on Islamic charities, even before
22 myself and other colleagues I worked with.
23 And he invited me to write a feasibility
24 study for a project to -- for a corporation
25 to remove unjustified obstacles from Islamic

1 the activity --

2 Q. Sir, your voice is trailing
3 off. I can't hear you.

4 A. He had diversified interests of
5 many kinds, and I -- if I could just consult,
6 just to refresh my memory, to look at the...

7 Yes, he had -- yes, he
8 certainly had financial interests of many
9 kinds. From what I remember, in sesame
10 seeds, possibly waste -- scrap metal
11 disposal, and he was a -- also in
12 agricultural products, though I haven't
13 studied his commercial activities
14 intensively.

15 Q. Wouldn't that be important for
16 you to study if you're going to render an
17 opinion and provide testimony concerning
18 Mr. Kadi's conduct in this case, as it
19 relates to this case?

20 A. But I wasn't asked to give a
21 narrative history of all of his commercial
22 activities, and I didn't provide it.

23 Q. Did you ever read any reports
24 or obtain material that alleged that some of
25 the Kadi businesses employed al-Qaeda

1 operatives in the Sudan?

2 A. There have been so many
3 documents I've looked at in this -- compiling
4 this report which was done over quite a short
5 period in January. If you'd show me the
6 documents concerned, then I'd be very happy
7 to comment on them.

8 Q. Well, sir, I'm asking you, did
9 you -- when you sat down to write a report on
10 Mr. Kadi and prepared for this deposition to
11 provide testimony about Mr. Kadi and
12 financing al-Qaeda terrorists, wouldn't that
13 be something you would want to take a deep
14 dive in to look at his businesses as well as
15 the Islamic charities?

16 A. I was asked to provide
17 certain -- to answer certain questions by the
18 attorneys, and I answered those questions to
19 the best of my ability.

20 Q. So earlier you considered
21 yourself an expert in Islamic charities.

22 Do you consider yourself an
23 expert in businesses that Mr. Kadi had?

24 A. No, I don't consider myself an
25 expert in businesses that Mr. Kadi had.

1 Q. And was Mr. Kadi one of them?

2 A. That -- no, I don't think he
3 was personally a shareholder.

4 Q. One of his entities?

5 A. I -- yes.

6 Q. Which one?

7 A. I've already said, Luxor was
8 going -- I believe was wholly-owned by him;
9 and the Muwafaq Foundation, of which he was a
10 trustee.

11 Q. Okay. And how about Mr. Kadi's
12 investments in Al Shamal Bank, what do you
13 know about that?

14 A. I can't remember anything about
15 that, I'm afraid.

16 Q. Do you know if Bin Laden was a
17 shareholder in Al Shamal Bank?

18 A. I can't remember.

19 Q. Do you consider yourself an
20 expert in al-Qaeda?

21 A. No, I don't.

22 Q. Have you ever studied al-Qaeda
23 and how they were -- how they raised funds?

24 A. I have read a lot about the
25 history of al-Qaeda from various sources. I

1 did a lot of research in the last few years.
2 I've read it with great interest, but I
3 wouldn't hold myself out as an expert on the
4 history of al-Qaeda, no.

5 Q. Do you know how al-Qaeda was
6 funded and financed?

7 A. No, I don't. Do you?

8 Q. I'm asking you, sir.

9 A. I don't.

10 Q. Do you know if they were funded
11 by Islamic charities?

12 A. I don't.

13 Q. Do you know if they were funded
14 by Mr. Kadi in part?

15 A. I haven't seen any evidence to
16 that effect.

17 Q. Let's turn to your report again
18 and go to the page on methodology, which I
19 think is page 8.

20 A. This is the Kadi report we are
21 talking about, yes?

22 Q. Yes, sir.

23 A. I have it.

24 Q. When I'm done, Mr. Carter may
25 have questions about the IIRO report. I'm

1 not certain. But I'm going to be sticking
2 just to the Kadi report.

3 So page 8 is your page of your
4 Kadi report that describes your methodology
5 for rendering an opinion in this matter;
6 correct?

7 A. Yes.

8 Q. And at the bottom of page 8,
9 you've listed two categories with subparts on
10 your methodology.

11 Is that a fair description?

12 A. Yes.

13 Q. And in the first category, I
14 counted around eight different sources that
15 you used that you consider to be, first and
16 foremost, where you would first start your
17 investigation, and that's primary sources;
18 correct?

19 A. Yes.

20 Q. So the first one is:

21 Interviews with all relevant interlocutors,
22 such as charity workers and trustees, both
23 remunerated and unpaid, both active and
24 retired.

25 You wrote that, right, sir?

1 A. Yes.

2 Q. And who did you interview for
3 this report?

4 A. This is a general statement
5 about methodology, not necessarily related to
6 a specific report; but it's a kind of
7 perspective of the process of doing research,
8 which --

9 Q. So you've -- you're describing
10 in general --

11 MR. SALERNO: Excuse me,
12 Mr. Maloney, please don't interrupt
13 the witness when he's still trying to
14 answer.

15 MR. MALONEY: Okay.

16 Mr. Benthall, I'm going to ask you to
17 try to keep your answers as concise as
18 possible. I know it's not easy. I
19 know that your personality, and it's
20 not a knock on you, you tend to go on.
21 I would prefer you to be as concise as
22 possible because we have a time
23 constraint here.

24 A. You've asked me some very
25 general questions about my earlier career.

1 Q. (BY MR. MALONEY) Okay. My
2 question was: Did you interview anyone from
3 the charities for this report?

4 A. No, I didn't.

5 Q. Okay. The next item here, it
6 says, for a primary source methodology is to
7 consult with: Government officials, both
8 central and local, including representatives
9 of regulatory authorities.

10 Did you interview or speak to
11 any government officials in connection with
12 this report?

13 A. No, I didn't. I would
14 reiterate what I was trying to say before,
15 that I'm referring to research methodology
16 and methodology in general, not specifically
17 this report. Of course, this --

18 Q. Okay. I understand. These are
19 general. But I want to ask you what you did
20 exactly, so I want to go through each of
21 these items and essentially ask you with
22 regards specifically to this report what you
23 did or didn't do, and that's all I'm asking,
24 and we can go through it rather quickly or --

25 A. Fair enough. Fair enough.

1 Q. So the third one is
2 representatives of religious institutions;
3 recipients of charity --

4 Did you -- sorry,
5 representatives of religious institutions.

6 Did you interview or discuss
7 this material for this report with religious
8 institutions, "yes" or "no"?

9 A. No.

10 Q. The next one is discussions or
11 interviews with recipients of the charity and
12 welfare support.

13 Did you discuss or interview
14 anybody that was receiving any of the charity
15 from Muwafaq or Kadi in connection with this
16 report?

17 A. No.

18 Q. The next one is government
19 publications and websites.

20 Did you review government
21 publications and websites in connection with
22 this report?

23 A. Yes.

24 Q. Okay. I'm going to circle
25 that, and we'll come back to that. Well,

1 on the face of it, this was what he was
2 saying. Of course, there's the possibility
3 that he was lying through his teeth.

4 Q. Okay.

5 A. I believe that if Mr. Kadi had
6 shown any inclinations towards jihadist
7 ideology, it would have seeped out in the
8 course of these proceedings. And I see no
9 evidence at all that he had any sympathy with
10 jihadist ideology. The fact that he -- the
11 fact that he supported a women's college and
12 on other occasions, he supported training for
13 women. And so this is completely at odds
14 with al-Qaeda.

15 Q. So are you saying that it's not
16 likely for a person that supports a charity
17 or good works to also simultaneously support
18 jihadists, including al-Qaeda? Are they
19 mutually exclusive in your mind?

20 MR. SALERNO: Objection, form.

21 A. I didn't say that, Mr. Maloney.
22 I said that I believe that if any sympathy of
23 Mr. Kadi with jihadist extreme violentism
24 ideology were there, it would have seeped out
25 somewhere in this immense documentation.

1 A. I'll have to reflect upon that.

2 Q. I'm sorry, I thought you knew
3 because you said you went yourself to get
4 this. I thought you might know why you did
5 it.

6 A. Well, I do know, but I'm trying
7 to find the place in my expert report that I
8 referred to it. If you will give me a
9 moment, I will find it.

10 Q. Sir, if you need time, we're
11 going to go off the record, unless you --

12 A. Well, if this is important, I
13 will -- it's just --

14 Q. I don't know how important it
15 is. It's up to you to determine.

16 A. I'm not saying it's
17 unimportant, but I just can't remember the
18 exact place in this -- I would need just a
19 few minutes to scroll.

20 Q. Okay. Why don't we go off the
21 record, and you can take a look for it.

22 A. Okay.

23 THE VIDEOGRAPHER: Off the
24 record at 4:02 p.m.

25 (Recess taken, 4:02 p.m. to

1 financial reports to fall into the category;
2 correct?

3 A. Well, again, this is a little
4 bit of a borderline case, because a financial
5 report is -- what it is it's a primary
6 source; but at the same time, one wants to
7 know to what degree it's authenticated and to
8 what extent it can be regarded as an
9 objective statement of the facts.

10 So as I said, I think the
11 distinction between primary and secondary
12 source is a bit blurred at times for anybody,
13 but I wanted to make the distinction between
14 something that is actually factual and can't
15 be rebutted and secondary sources which
16 include an element of analysis and
17 interpretation.

18 Q. Did you review financial
19 reports in connection with the Kadi report?

20 A. I did indicate some of the
21 Pakistan offices, which are cited -- which I
22 think I mentioned in my report.

23 Q. Any other financial reports?

24 A. Not that I can recall.

25 Q. Why did you review the Pakistan

1 financial report but not Sudan or any of the
2 other Muwafaq locations or any of the Kadi
3 businesses?

4 A. There was limited time to
5 finish the -- to write the report, and I --

6 Q. You didn't have enough time to
7 review the financial records --

8 MR. SALERNO: Mr. Maloney,
9 please let the witness try to finish.

10 MR. MALONEY: I thought he was
11 done.

12 A. No, I -- all I can say is I --
13 I had these made available to me. I think
14 they were cited -- I think it was because
15 they were cited by Mr. Comras. I reviewed
16 all of Mr. Comras' footnotes and assumed that
17 the burden of the plaintiffs' case against
18 Mr. Kadi would be incorporated in Mr. Kadi's
19 expert report.

20 Sorry, Mr. Comras' expert
21 report.

22 Q. (BY MR. MALONEY) So the reason
23 you reviewed the Pakistan financials were
24 because they were mentioned by Mr. Comras;
25 correct?

1 A. Yes.

2 Q. He mentioned some other
3 financial records. You didn't review those,
4 though, did you?

5 A. No, I didn't. Not that I can
6 recall.

7 Q. And one of the reasons I think
8 you just said is you didn't have enough time;
9 correct?

10 A. Yes.

11 Q. Would it be important to look
12 to the totality of the evidence that's
13 available for you to review to determine
14 whether or not Mr. Kadi's financial records
15 may have shown support for al-Qaeda?

16 MR. SALERNO: Objection to
17 form.

18 A. I couldn't do everything in
19 writing a short report of this kind.

20 MR. MALONEY: Fair enough.

21 If you just bear with me for a
22 few minutes, I may be almost done with
23 my questions.

24 Q. (BY MR. MALONEY) Mr. Benthall,
25 are you familiar with the methodologies that

1 Q. I did not see reference to any
2 government reports or designations concerning
3 the IIRO or Muslim World League in the
4 footnotes to your reports; is that correct?

5 A. That is not correct, but I
6 think I referred to the -- I referred in the
7 body of the report to the designations in the
8 Philippines and Indonesia; I can't remember.

9 Q. Okay. So although there wasn't
10 a footnote, you did look at the designations
11 of the IIRO branches in the Philippines and
12 Indonesia; correct?

13 A. I did look at them, yes.

14 Q. And just to try and make sure
15 I'm clear about the scope of your testimony
16 in the case, am I correct that you are not
17 offering an affirmative expert opinion as to
18 whether funds or research -- resources were
19 sent by IIRO employees to al-Qaeda?

20 A. I certainly have no -- I
21 couldn't possibly prove or argue that no such
22 funds were sent. This would be proving a
23 negative.

24 Q. And is the same true as to the
25 Muslim World League?

1 the testimony of Dr. Basha concerning the
2 activities of Prince Turki bin Jalawi; is
3 that correct?

4 A. Yes, I did.

5 Q. And is it correct that
6 Dr. Basha testified that Prince Turki bin
7 Jalawi was sending money directly from the
8 Eastern Province office overseas in violation
9 of the IIRO's own procedures?

10 MR. NASSAR: Objection to form.

11 A. From what I recall, the Eastern
12 Province was acting irregularly, and Basha
13 was trying to call them to order.

14 Q. (BY MR. CARTER) And did
15 Dr. Basha also testify that Prince Turki bin
16 Jalawi refused to comply when Dr. Basha asked
17 him to stop engaging in his irregular
18 behaviors?

19 A. I think I recall that, but that
20 doesn't detract from the fact that Basha was
21 trying to put things right, that he
22 disapproved of what was happening and was
23 trying to put it right.

24 Q. So it was sufficient for, in
25 your view, for Basha to raise the issue, and

1 I do recall in other
2 correspondence, or possibly in -- I met him
3 for the second time in Doha. This was in
4 2006. And I do remember saying to him that
5 it was a pity that the annual reports were --
6 they weren't annual reports, but the
7 reporting by IIRO was so scanty, because it
8 made it very difficult for them to defend
9 themselves against allegations. And shortly
10 afterwards, I did get a message from him
11 saying I believe you, you've been asking for
12 more information. And here it is.

13 And I received some packages by
14 post and then later e-mail communications as
15 well. But I was basically
16 information-gathering rather than challenging
17 him on any particular points.

18 Q. The reason I'm asking is
19 because a minute ago you testified about the
20 potential that there were people who had
21 strings to pull that were preventing
22 Dr. Basha from implementing the forms.

23 Was that based on some specific
24 information that Dr. Basha provided to you,
25 or is that your speculation?

1 A. Counsel, I have to admit --

2 MR. NASSAR: Objection, form,

3 mischaracterizes his testimony.

4 A. I have to admit -- nothing like
5 that came from Dr. Basha. I have to admit
6 that it's more speculation than concrete
7 evidence.

8 Q. (BY MR. CARTER) In your
9 report, you cite to one of your own papers
10 called The Rise and Decline of Saudi Overseas
11 Humanitarian Charities.

12 Do you recall that paper?

13 A. I do, yes.

14 Q. And that significantly
15 discusses the IIRO; correct?

16 A. Correct.

17 Q. And on page 2 of that report,
18 you indicate that the charge sheet against
19 IIROSA's branches during the 1980s and 1990s
20 is extensive.

21 Do you recall that?

22 A. Can you --

23 MR. CARTER: Yeah, why don't we
24 go ahead and mark as the next exhibit
25 The Rise and Decline of Saudi Overseas

1 Q. Mr. Benthall, did you take into
2 consideration evidence that the IIRO had
3 supported mujahidin fighters in Afghanistan,
4 Bosnia, and Chechnya in forming your opinions
5 about the ideological orientation of the IIRO
6 and its possible sympathies for al-Qaeda?

7 MR. NASSAR: Objection to form.

8 A. I didn't see any connection
9 between what was to support the mujahidin and
10 the Bosnian Muslims and al-Qaeda, which was a
11 global attack on America, basically. There
12 was -- I don't see anything in common really.

13 Q. (BY MR. CARTER) So you don't
14 see any connection between the mujahidin
15 fighters who participated in Afghanistan,
16 Bosnia and Chechnya and al-Qaeda?

17 MR. NASSAR: Objection to form.

18 A. I've already said that I think
19 there were some people in association with
20 al-Qaeda, but they didn't have a presence, as
21 far as I'm aware, as an entity in Bosnia.

22 Q. (BY MR. CARTER) And you
23 testified earlier that you're not an expert
24 on al-Qaeda; correct?

25 A. That's correct.

1 MR. NASSAR: Object.

2 Q. (BY MR. CARTER) Okay. And, in
3 fact, you testified earlier that prior to
4 1996, al-Qaeda was, in your view, a less
5 repulsive organization; correct?

6 A. Prior to 1992 --

7 Q. Yes.

8 A. Well, there wasn't -- it was in
9 1996 that Bin Laden declared war against
10 America. And before then, you can certainly
11 say he was very anti-American. He had a big
12 quarrel with the Saudis because of the
13 American forces on the Saudi land.

14 Q. But you described it earlier as
15 a less repulsive organization prior to 1996.
16 That's correct?

17 MR. NASSAR: Objection,

18 mischaracterizes his testimony.

19 A. That is a -- I forget exactly
20 what I said, which was on the basis of
21 information I had available. It was not --
22 it was quite a small organization during the
23 early '90s, and it began to become sort of
24 notorious by 1996.

25 Q. (BY MR. MALONEY) Do you know

1 when Bin Laden began advocating that al-Qaeda
2 should strike against the American interests?

3 MR. NASSAR: Objection to
4 scope.

5 A. I can't remember. I've already
6 said I'm not -- I don't have special
7 expertise on the history of al-Qaeda. I have
8 a general interest over it but not a lot
9 about it.

10 Q. (BY MR. CARTER) And you're
11 also not an expert on how al-Qaeda was
12 funded; correct?

13 A. On what?

14 Q. On how al-Qaeda was funded.

15 A. No, but I am -- I haven't seen
16 evidence that al-Qaeda had a corporate
17 presence in Bosnia at the time.

18 Q. There are extensive discussions
19 in your report about the history of Islamic
20 charity.

21 Are you familiar with that?

22 MR. NASSAR: Objection to form.

23 A. Did you say am I familiar with
24 that?

25 Q. (BY MR. CARTER) Yeah. Are you

1

CERTIFICATE

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I, DEBRA A. DIBBLE, Registered Diplomate Reporter, Certified Realtime Reporter, Certified Court Reporter and Notary Public, do hereby certify that prior to the commencement of the examination, JONATHAN BENTHALL was duly sworn by me to testify to the truth, the whole truth and nothing but the truth.

6

I DO FURTHER CERTIFY that the foregoing is a verbatim transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth, to the best of my ability.

9

I DO FURTHER CERTIFY that pursuant to FRCP Rule 30, signature of the witness was not requested by the witness or other party before the conclusion of the deposition.

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I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

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DEBRA A. DIBBLE, RDR, CRR, CRC
NCRA Registered Diplomate Reporter
NCRA Certified Realtime Reporter
Certified Court Reporter

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Dated: 8-6-2021

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1 INSTRUCTIONS TO WITNESS

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3 Please read your deposition over
4 carefully and make any necessary corrections. You
5 should state the reason in the appropriate space on
6 the errata sheet for any corrections that are made.

7 After doing so, please sign the errata
8 sheet and date it.

9 You are signing same subject to the
10 changes you have noted on the errata sheet, which
11 will be attached to your deposition.

12 It is imperative that you return the
13 original errata sheet to the deposing attorney
14 within sixty (60) days of receipt of the
15 deposition transcript by you. If you fail to do
16 so, the deposition transcript may be deemed to be
17 accurate and may be used in court.

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1 ERRATA

2 PAGE LINE CHANGE

4 REASON:

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LAWYER'S NOTES

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